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C O N F I D E N T I A L SECTION 01 OF 03 TAIPEI 001780

SIPDIS

STATE PLEASE PASS AIT/W AND USTR  
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TAGS: [ETTC](#) [PARM](#) [PINR](#) [PREL](#) [PTER](#) [TW](#)

SUBJECT: TAIWAN'S INADEQUATE EXPORT CONTROLS

REF: A. TAIPEI 1706

- [B](#). STATE 26545
- [C](#). 04 STATE 271561
- [D](#). 04 STATE 109219

Classified By: AIT DIRECTOR DOUGLAS PAAL, REASON 1.5 B/D

1. (C) Summary: On April 8 Taiwan's Bureau of Foreign Trade (BOFT) gave AIT a report on its investigations into the She Hong Company and Eumatech Company machine tool shipments to Syria, as we had requested in refs C and D. The results of the BOFT investigations, while welcome, suggest that the Taiwan agencies charged with export control need to significantly improve their processes before Taiwan can be considered to have a strong export control regime. They also illustrate the need for the United States to establish a clear program for Taiwan to implement in order to realize the commitments articulated by the Ministers of Economic Affairs and Foreign Affairs in response to our recent demarche. AIT/T has prepared a list of concrete steps (para 5) that it believes Taiwan authorities should take to demonstrate their professed resolve on export control and which are necessary to upgrade Taiwan's export control system. End summary.

2. (C) BOFT Director Peter Ho began the meeting on April 8 by reiterating what his Minister (Ho Mei-yueh) had said on April 7 (ref A), that MOEA fully supports the strengthening of Taiwan's export control policies.

Investigation Goes Through the Motions  
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3. (C) As requested in the AIT demarches based on refs C and D, BOFT has investigated the She Hong Company (maker of "Hartford" machine tools) and the Eumatech Company machine tool shipments to Syria. Ho said the investigation revealed that from 2002 through September 2004 She Hong exported 21 separate shipments of machine tools to the Kaddour and Madani Company of Syria. According to She Hong, the Kaddour and Madani Company is a regional agent for machine tools, not an end user itself. She Hong claimed it did not know the identity of the end users, but tried to address export control concerns. On the invoice of every shipment, She Hong stipulated that the machines were "not to be used for WMD purposes." According to the BOFT investigation, none of machine tools exported by She Hong were on the Strategic High-Tech Commodities (SHTC) lists. She Hong told BOFT that it intended to abide by relevant export control regulations. BOFT concluded that since the machine tools were not on the SHTC lists, there was no requirement for an export license and no violation of Taiwan's export control regulations. Nonetheless BOFT requested Taiwan Customs to add She Hong to its list of "high-risk" companies and that all its shipments be closely monitored. BOFT reported that the Eumatech Company was not registered with the Ministry of Economic Affairs (MOEA) and cannot legally import or export. (AIT has since requested the Ministry of Justice Investigative Branch to investigate Eumatech further.)

Results Ignore "Catch-all" Violations  
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4. (C) Several of the recent BOFT investigations based on our export control demarches have yielded similar results: That the machine tools were not on the SHTC lists, that the customer was not on prohibited end-user lists, that no license was therefore required, and no law violated. However, Taiwan's catch-all provisions which became effective January 2004 state that an export control license is required whenever the exports are to a "high-risk" area (defined as Iran, Iraq, Libya, China, Cuba, Syria, Sudan, and North Korea) and the item could (keneng) be used to produce nuclear, chemical, biological weapons, weapons of mass destruction, or be used in the production of military weapons.

(C) As we read it, Taiwan's catch-all regulation indicates that before the She Hong Company can export a machine tools to Syria that it knows could be used to produce weapons of mass destruction (or other military weapon), it must apply

for an export license. The fact that She Hong included a stipulation against WMD use shows it knew the machines could be used to produce weapons. There is clearly a conflict between the expressions of commitment to strict export control and the extreme reluctance to enforce current laws.

#### Measures of Performance are Needed

15. (C) In order to address this apparent contradiction between the high-level commitments articulated in response to our recent demarche and the inadequate implementation as seen in these latest investigation results, AIT/T believes that it would be useful to set out some benchmarks for Taiwan performance on export control. This would provide a way to clarify objectives and measure Taiwan's progress toward those objectives. AIT/T suggests the following actions as possible milestones for Taiwan progress on export control and concrete evidence of Taiwan commitment to export control:

- Taiwan's Ministry of Economic Affairs (MOEA) should issue a statement to clarify Taiwan's catch-all regulation so that government agencies and industry fully understand the requirement for an export license for all exports to high-risk countries of items that can be used in the production of WMD or military weapons.
- MOEA should immediately impose the administrative sanctions indicated under Taiwan's Trade Act on companies guilty of major export control violations, including violations of catch-all regulation where the item exported is not on SHTC lists but because of the end-user or destination of the commodity, and its potential use to produce military weapons, the export requires a license. AIT/T suggests that sanctions begin with the She Hong Company.
- MOEA should impose the administrative sanctions on companies that present items for export without the required export permit.
- Taiwan agencies should determine how current laws could be used to limit the flow of technology to high-risk countries instead of waiting for new legislation. The catch-all regulation did not require new legislation. It is unclear why protection for sensitive technologies should require additional legislation. MOEA could simply issue a notice broadened the coverage of export control regulations to include technologies involved in WMD or weapons production.
- MOEA should expand the scope of export control jurisdiction to cover proliferation and arms brokering by Taiwan entities outside of Taiwan.
- MOEA should establish re-export controls on exported Taiwan items.

16. (C) While Taiwan should demonstrate its commitment to export control through actions, at the same time, U.S. agencies can contribute to the success of Taiwan's efforts in a number of ways:

- AIT should meet with legislators to explain USG goals behind export control. Before the meeting, AIT needs to be clear on the key points, such as detailed elements of a Technology Protection Law.
- AIT should, as requested by Foreign Minister Mark Chen, provide a sample Technology Protection Law that could be used as a model for their own law (which has been renamed the "Sensitive, Scientific, and Technical Protection Law" (minggan kexue jishu baohu fa)).
- The MOEA Bureau of Foreign Trade (BOFT) continues to urge that the remaining five EXBS training courses be scheduled soon.
- BOFT has repeatedly asked for a U.S. team to look into a more efficient way for Taiwan to verify end users with U.S. agencies (mentioned again during Asher's February visit.)
- AIT should send representatives to participate in the BOFT export control seminars for machine tool industry.

#### Comment

17. (C) The USG has heard expressions of Taiwan's commitment to strict export control from many of the top officials in the government, including the President and Premier. It is time for Taiwan to prove this commitment with action. AIT will begin the process by calling on MOEA and NSC to ask that administrative sanctions be imposed on those companies that exported items that could be used to produce weapons to high-risk countries.

PAAL